



OFFICE OF THE POLICE COMMISSIONER

ONE POLICE PLAZA • ROOM 1400

December 17, 2012

CHAN

Memorandum for: Deputy Commissioner, Trials

Re: **Detective Robert Alartosky**
Tax Registry No. 927834
104th Precinct Detective Squad
Disciplinary Case No. 2011-5299

The above named member of the service appeared before Deputy Commissioner Martin G. Karopkin on March 28, 2012 and was charged with the following:

DISCIPLINARY CASE NO. 2011-5299

1. Said Detective Robert Alartosky, while off-duty in [REDACTED] New York, on or about October 31, 2010, did wrongfully engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Detective engaged in a verbal and physical altercation with Person A. *(As amended)*

P.G. 203-10, Page 1, Paragraph 1

PUBLIC CONTACT – PROHIBITED CONDUCT GENERAL REGULATIONS

2. Said Detective Robert Alartosky, while off duty in [REDACTED] New York, on or about February 22, 2011, did wrongfully engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Detective, during a verbal dispute with Person A, did punch and break a picture frame and threaten Person A.

P.G. 203-10, Page 1, Paragraph 1

PUBLIC CONTACT – PROHIBITED CONDUCT GENERAL REGULATIONS

3. Said Detective Robert Alartosky, while off duty in [REDACTED] New York, on or about October 31, 2010, after being involved in an unusual police occurrence involving [REDACTED] did thereafter fail to promptly notify the Operations Unit, as required.

P.G. 212-32, Page 1, Paragraph 2 (Note) OFF DUTY INCIDENTS INVOLVING UNIFORMED MEMBERS OF THE SERVICE

4. Said Detective Robert Alartosky, while off duty in [REDACTED] New York, on or about October 31, 2010, did wrongfully engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Detective engaged in a verbal and physical altercation with Person A in the presence of [REDACTED] Person B, born on [REDACTED] 2004 and [REDACTED] Person C, born on [REDACTED] [REDACTED] 2007. *(As amended)*

P.G. 203-10, Page 1, Paragraph 1

PUBLIC CONTACT – PROHIBITED CONDUCT GENERAL REGULATIONS

5. Said Detective Robert Alartosky, while off duty in [REDACTED] New York, on or about February 22, 2011, did wrongfully engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Detective during a verbal dispute with Person A, did punch and break a picture frame and threaten Person A in the presence of [REDACTED] Person B, born on [REDACTED] 2004 and [REDACTED]

[REDACTED] Person C, born on [REDACTED] 2007.

P.G. 203-10, Page 1, Paragraph 1

PUBLIC CONTACT – PROHIBITED CONDUCT GENERAL REGULATIONS

6. Said Detective Robert Alartosky, while off-duty in [REDACTED] New York, on or about and between January 1, 2002 and December 31, 2002, having no right to do so nor any reasonable ground to believe that he had such right, he intentionally damaged the property of another, to wit: said Detective intentionally scratched a car belonging to another person. *(As amended)*

N.Y.S. Penal Law Section 145.00 (1)

CRIMINAL MISCHIEF IN THE FOURTH DEGREE

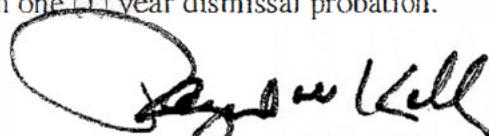
7. Said Detective Robert Alartosky, while off-duty in [REDACTED] New York, on or about February 22, 2011, did wrongfully consume an intoxicant, to wit: a quantity of alcohol to the extent that said Detective was unfit for duty.

P.G. 203-04, Page 1, Paragraph 2

FITNESS FOR DUTY – GENERAL REGULATIONS

In a Memorandum dated July 26, 2012, Deputy Commissioner Martin G. Karopkin found Detective Alartosky Guilty of Specification Nos. 1, 2, 3, 4, 5, 6, and 7, in Disciplinary Case No. 2011-5299. Having read the Memorandum and analyzed the facts of this matter, I approve [REDACTED] but disapprove the penalty.

I have considered the totality of issues in the various acts of misconduct for which Detective Alartosky has been found Guilty and deem that a greater penalty is warranted. Therefore, Detective Alartosky's disciplinary penalty shall be the forfeiture of thirty (30) vacation days and he will be placed on one (1) year dismissal probation.



Raymond W. Kelly
Police Commissioner



POLICE DEPARTMENT

July 26, 2012

MEMORANDUM FOR: Police Commissioner

Re: Detective Robert Alartosky
Tax Registry No. 927834
104 Detective Squad
Disciplinary Case No. 2011-5299

The above-named member of the Department appeared before me on March 28 and May 17, 2012 charged with the following:

1. Said Detective Robert Alartosky, while off duty in [REDACTED] New York, on or about October 31, 2010, did wrongfully engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer engaged in a verbal and physical altercation with Person A. *(As amended)*

P.G. 203-10, Page 1, Paragraph 1 PUBLIC CONTACT PROHIBITED
CONDUCT GENERAL REGULATIONS

2. Said Detective Robert Alartosky, while off-duty in [REDACTED] New York, on or about February 22, 2011, did wrongfully engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer, during a verbal dispute with Person A, did punch and break a picture frame and threaten Person A.

P.G. 203-10, Page 1, Paragraph 1 -- PUBLIC CONTACT PROHIBITED
CONDUCT GENERAL REGULATIONS

3. Said Detective Robert Alartosky, while off-duty in [REDACTED] New York, on or about October 31, 2010, after being involved in an unusual police occurrence involving domestic violence did thereafter fail to promptly notify the Operations Unit, as required.

P.G. 212-32, Page 1, Paragraph 2 (Note) OFF DUTY INCIDENTS
INVOLVING UNIFORMED
MEMBERS OF THE SERVICE

4. Said Detective Robert Alartosky, while off-duty in [REDACTED] New York, on or about October 31, 2010, did wrongfully engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer engaged in a verbal and physical altercation with Person A in the presence of [REDACTED] [REDACTED] Person B, born on [REDACTED], 2004 and [REDACTED] Person C, born on [REDACTED] 2007. *(As amended)*

P.G. 203-10, Page 1, Paragraph 1 – PUBLIC CONTACT – PROHIBITED CONDUCT GENERAL REGULATIONS

5. Said Detective Robert Alartosky, while off-duty in [REDACTED] New York, on or about February 22, 2011, did wrongfully engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit; said Police Officer, during a verbal dispute with Person A, did punch and break a picture frame and threaten Person A in the presence of [REDACTED] Person B, born on [REDACTED] 2004 and [REDACTED] Person C, born on [REDACTED], 2007.

P.G. 203-10, Page 1, Paragraph 1 PUBLIC CONTACT PROHIBITED CONDUCT GENERAL REGULATIONS

6. Said Detective Robert Alartosky, while off-duty in [REDACTED] New York, on or about and between January 1, 2002 and December 31, 2002, having no right to do so nor any reasonable ground to believe that he had such right, he intentionally damaged the property of another, to wit: said Detective intentionally scratched a car belonging to another person. *(As amended)*

N.Y.S. Penal Law Section 145.00 (1) – CRIMINAL MISCHIEF IN THE FOURTH DEGREE

7. Said Detective Robert Alartosky, while off-duty in [REDACTED] New York, on or about February 22, 2011, did wrongfully consume an intoxicant, to wit, a quantity of alcohol to the extent that said officer was unfit for duty.

P.G. 203-04, Page 1, Paragraph 2 FITNESS FOR DUTY – GENERAL REGULATIONS

The Department was represented by Louis Bara, Esq., Department Advocate's Office, and Respondent was represented by James Moschella, Esq.

A stenographic transcript of the record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent, having pled Guilty, is found Guilty.

SUMMARY OF EVIDENCE PRESENTED IN MITIGATION

Respondent testified in his behalf and called Sergeant Michael Ackerman as a witness.

Respondent

Respondent, an 11-year member of the service, is currently assigned to the 104 Precinct Detective Squad. He has been on modified assignment since February 2011. He has never before been the subject of Department charges. He has [REDACTED] Person A since October 2001. They have two children together: Person B who is seven years old, and Person C who is five. Respondent and Person A are currently separated from each other.

Respondent and Person A were already experiencing [REDACTED] problems in October 2010. They were going to counseling, but the situation was “definitely headed in a downward spiral at that point.” At 9:30 or 10:30 a.m. on October 31, 2010, Respondent became very upset after reading a text message that Person A received on her phone. The message led Respondent to believe that Person A was having an [REDACTED]. They proceeded to have an argument about the message in the den of their house. Respondent conceded that he “reached out with [his] left hand, grabbed [Person A] by the neck nape back of the head portion of the body, pointed at her with [his] right hand, and called her a lying cheating whore.” Person A began to cry, and Respondent let her go. Although the argument

continued, there was no further physical contact. The argument ended when Person A went to get the children, who were at the other end of the house, ready for a Halloween parade. In total, the argument lasted approximately three minutes. Person A did not call the police at any point, nor did the police respond to the residence. Person A did not sustain any injury. Respondent had not consumed any alcohol on that day. He did not notify the Department of the altercation.

Respondent and Person A did not have another altercation until February 22, 2011. On that day, Person A called to tell Respondent that she was going out to dinner with a girlfriend after work. Respondent did not believe her and thought that she was meeting a man. When Person A came home at approximately 8:00 p.m., Respondent confronted her with his suspicions. Respondent questioned her as to her whereabouts and asked if he could see her cell phone. When Respondent asked Person A if she was going to [REDACTED] him, she answered in the affirmative. This caused Respondent to feel great emotional pain. In response, he punched the wall. He also struck a picture frame that was on the wall. The picture broke, as did Respondent's right hand. During this time, he was standing three to four feet away from Person A. Respondent conceded that he made threats to Person A. He explained that when Person A jumped back as if he was going to hit her, he told her something to the effect of, "Stop with the act, I am not going to hurt you, I am not even going to touch you. If I wanted to I could kill you with one hand. Knock the act off." The incident lasted between six and nine minutes. It ended when Person A grabbed her purse and left the location. The kids were in bed during the altercation. At no point during the altercation did Respondent make physical contact with Person A.

Approximately 20 minutes later, Respondent's supervisor, Sergeant Michael Ackerman, showed up at Respondent's residence. Respondent learned that Person A had called Ackerman about the altercation. Ackerman made notifications. The duty captain responded to the residence, and Respondent was placed on modified duty.¹ [REDACTED]

[REDACTED] Police personnel also responded to the scene, but they did not take any action against Respondent. On that day, Respondent had consumed four or five beers. While he would have been deemed unfit for duty, the alcohol did not cause him to punch the wall. His actions were prompted by the "thoughts and emotions of going through [REDACTED] and losing [his] Person A."

After the February 2011 incident, Respondent sought [REDACTED] for his prior [REDACTED]. He was referred to the [REDACTED] Unit and voluntarily entered into [REDACTED] at that point, signing a [REDACTED] contract. [REDACTED]
[REDACTED]
[REDACTED] His [REDACTED] lasts for 19 more months, and he is subject to [REDACTED]. Consumption [REDACTED] would constitute a violation of the contract. Any contract violation would call for suspension and possible separation from the Department. [Respondent's Exhibit A is an unsigned contract or "Treatment Agreement and Client Confidentiality Statement."]

Since the February 2011 altercation, Respondent and Person A have been actively pursuing [REDACTED]. He has not lived in the [REDACTED] residence since the incident, but he has maintained a great relationship with his children. At one point, he was served with a full stay-away order of protection. Two days later, Person A went back to Family Court to _____

¹ The parties stipulated that when the duty captain prepared a Fitness for Duty Report at 6:00 a.m. the day after the incident, he found Respondent to be fit for duty.

have it reduced to a limited order of protection. The order was ultimately vacated in September or October 2011.

Respondent and Person A did not have any further incidents until February 2012. During that month, Person A called the police on a couple of occasions that the handoff of the children "had not gone swell." In response, Respondent's attorney has added to the visitation stipulation that the children be dropped off and picked up at the [REDACTED] Precinct station house.

Respondent conceded that ten or 11 years ago he used a key to scratch Person A's car. He explained that that night Person A scratched his car first because she was upset that he had been at a gentlemen's club. Respondent is embarrassed that he committed such a juvenile act. Police were not called to the incident, nor were any police reports filed.

On cross-examination, Respondent confirmed that he had been drinking on the 2002 night that he scratched Person A's car. He was intoxicated when Person A arrived to pick him up at the gentlemen's club. It was an eight or ten-minute ride from the club to their residence. It was when he got home that he scratched Person A's car. Person A had already scratched the driver's side window and window frame of his car.

The night before the October 31, 2010, incident, he and Person A went to a party where alcohol was served. They were both drinking but did not stay at the party for long. After the party, they got into an argument. Respondent left the residence for a while. It is possible that he drank a beer during that period, but he would not have consumed any more than one beer because he was driving. There were firearms in the house at the time of their altercation the next morning. There was one gun that was kept locked and loaded in a vent in the bathroom. Respondent was sober at the time of the altercation. He

reiterated that the argument ended that day when Person A left the room. It did not end because Person A pointed out to him that Person B was in the room watching.

Respondent got home at approximately 4:00 p.m. on February 22, 2011. He had been drinking at a bar that day and had consumed four or five pints of beer. He drank to the point that he was intoxicated and unfit for duty. He was no longer drinking during the argument with Person A. He punched the wall because he was upset. He later sought medical treatment for his hand. The hand had to be set twice. It was Respondent's intent to calm Person A down when he told her that he was not going to hurt her but could kill her with one hand if he wanted to.

Respondent has not consumed alcohol since he [REDACTED]
[REDACTED]. He has no desire to drink again once his [REDACTED] expires.

Sergeant Michael Ackerman

Ackerman, a 19-and-a-half-year member of the Department, is currently assigned as commanding officer of the 104 Precinct Detective Squad. He has worked with Respondent for the last five years and is also friendly with him while off duty. He received a telephone call from Person A at approximately 11:45 p.m. on February 22, 2011. Person A was at her parents' house at the time. In response to the call, Ackerman went to Respondent's residence, arriving there at five or ten minutes before midnight. Respondent was upset and had a bandage on his hand. Respondent explained to Ackerman that he had punched the wall out of frustration and anger. Ackerman went to check on the children, who were both in bed sleeping. According to Ackerman,

Respondent did not appear to be intoxicated or unfit for duty. Respondent's balance was steady and his speech was normal. [REDACTED] police later arrived at the residence.

Respondent was placed on modified duty status as a result of the incident. In spite of this status, he has been retained in the 104 Precinct Detective Squad. Ackerman explained that he and his lieutenant at the time agreed that Respondent could be of continued value to the squad. Respondent assists detectives in their assignments, is helpful with administrative functions, and serves as a mentor to the younger detectives. There have not been any issues with Respondent at work.

On cross-examination, Ackerman confirmed that he had no way of judging what Respondent's intoxication level would have been earlier in the day.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). The Respondent was appointed to the Department on July 2, 2001. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respondent has pled guilty and has acknowledged his responsibility in this case. The only issue is punishment. The Department has recommended a penalty that consists of the loss of 30 vacation days and the imposition of dismissal probation for a period of one year. Respondent has urged that the penalty involve the loss of any reasonable amount of days but urges that dismissal probation not be imposed as punishment.

There is no question that as a result of this case Respondent participated in the Department's [REDACTED]. There is also no question that Respondent successfully completed that program. The Department initially argued that dismissal probation was an important component of the penalty as it was the best way to insure that Respondent would comply with ongoing random [REDACTED] testing both on and off duty. In its closing argument the Department has also argued that dismissal probation is justified by the nature of Respondent's conduct. Thus, there are two separate and specific issues that must be addressed on the issue of whether dismissal probation is an appropriate part of the penalty in this case.

Dismissal Probation

The New York City Administrative Code permits the commissioner, after a plea or trial, to suspend judgment and place the member on probation for up to one year. It further permits the commissioner to impose punishment at any time during that year. The language used by this Department in imposing what we generally refer to as dismissal probation is as follows:

Respondent shall be DISMISSED from the New York City Police Department, but that his dismissal be held in abeyance for a period of one year, pursuant to § 14-115 (d) of the Administrative Code, during which time he remains on the force at the Police Commissioner's discretion and may be terminated at anytime without further proceedings.

Dismissal probation therefore is a penalty of dismissal held in abeyance and not a punishment in and of itself.

There are no specific rules for when dismissal probation is to be used as a penalty. The diversity of fact patterns in the cases heard by this tribunal as well as the differing

circumstances of each Respondent make the setting of hard and fast rules not merely difficult but foolhardy as such rules would unduly limit the use of this unique² penalty.

To the extent that any guidelines have previously been annunciated regarding the imposition of dismissal probation the following statement has appeared in several decisions:

We have generally reserved the penalty of dismissal probation for those cases where immediate termination is not warranted but where the Respondent's prior formal disciplinary record indicates that the imposition of lesser penalties has not resulted in a change of behavior, or where it is adjudged likely that the Respondent will repeat his misconduct.³

This statement provides guidance but does not necessarily define the entire universe of cases in which dismissal probation might be appropriate. In the end, each case where dismissal probation is considered as a penalty must be evaluated on its own distinctive merits.

Use of Dismissal Probation as a Basis for Ordered Breath Testing.

As noted previously, at the outset of this proceeding the Department asserted the need for dismissal probation in conjunction with its recommendation that Respondent be subject to ordered breath testing. This point was made during the Advocate's opening statement when he concluded by saying:

² The Civil Service Law, which covers most other municipal employees, provides nothing similar to dismissal probation.

³ Disciplinary Case No. 71470/96, signed June 19, 1997; Disciplinary Case No. 71536/96, signed July 18, 1997; Disciplinary Case No. 78437/02, signed Oct 27, 2004; Disciplinary Case Nos. 80730/05 & 80731/05, signed Nov 10, 2005.

Commissioner at the end of the mitigation it will be clear that the Respondent has a problem with alcohol and as such, the Department, as his employer, has the need to monitor his alcohol intake and the best way to do this is ordered breath testing and dismissal probation.

In attempting to explain the relationship between potential alcohol abuse and dismissal probation the Advocate, in his closing argument, asserted that dismissal probation is not a monitoring tool "in and of itself" but that the drastic nature of the penalty would act as an "incentive" for the Respondent to "act appropriately."

It is worth noting that the Advocate never said that dismissal probation is necessary to impose ordered breath testing but that it is the best way to achieve compliance. At one point the Advocate stated that dismissal probation was necessary to "enforce" ordered breath testing and at another, as noted above, he said that it provided a very substantial "incentive" to comply.

For his part, Respondent points to Patrol Guide section 203-23 which deals with ordered breath testing for the presence of alcohol. That section provides rigorous procedures for conducting these tests both on and off duty.

Paragraph 1 recognizes that dismissal probation may be a factor for members of the service who are subject to ordered breath testing. But the paragraph also contemplates that members of the service not on dismissal probation may be subject to ordered breath testing.⁴ It explains that this can occur when a member of the service has "agreed to submit to ordered breath testing for the presence of alcohol as a result of a negotiated penalty in a Department disciplinary proceeding."

⁴ The specific language is "...uniformed members who have been placed on Dismissal Probation, or who have been the subject of other disciplinary action..." (emphasis added).

On this issue of enforcement, it should be noted that under the terms of the ordered breath testing consent a member of the service agrees that if he or she has a reading of .04 or greater he or she will be *presumed* to be unfit for duty, (emphasis added). It also provides that a refusal to submit to a test would be the basis for disciplinary action. Thus the Department is not without recourse should that member of service fail to comply.

Because it is not necessary for a member of the service to be on dismissal probation in order for that member to be subject to ordered breath testing, there needs to be a reason to put a member of the service on dismissal probation that goes beyond the need for monitoring. It could be the nature of the misconduct itself (something that will be discussed later in this decision) or it could relate to the nature of the alcohol abuse. For instance, a member of the service who has previously had alcohol-related disciplinary incidents would probably be a candidate for dismissal probation. Similarly, someone who lacks insight into his alcohol abuse problem and/or refuses to voluntarily agree to ordered breath testing would likely be a candidate.

In this case, Respondent has indicated that he is willing to voluntarily submit to ordered breath testing and agree to the terms of Patrol Guide section 203-23.

He has not been the subject of prior formal discipline related to alcohol abuse and indeed he has had no prior formal discipline at all. Further, in the period of over one year since the last event in the charges to the time of this writing there is no indication that Respondent has failed to stay alcohol-free and, indeed, there is every indication that he has remained in compliance with alcohol counseling.

In sum, there is nothing in the nature of this Respondent's history with regard to alcohol abuse that would indicate that dismissal probation is warranted.

Underlying Facts of the Case

As to the underlying facts of the case; there are three events. The first chronologically involves the Respondent's having scratched or "keyed" an automobile used by Person A (Specification No. 6). As the vehicle was owned by someone other than himself (the Department has represented that it was Person A's sister's car) Respondent could have been charged with the crime of criminal mischief. Respondent, for his part, testified that he thought the car was Person A's as it was one she had used for some period of time [REDACTED]. Respondent testified that he did this in response to Person A having "keyed" his car.

What should be considered about this specification is that the event occurred sometime in the year 2002. Indeed, because the date is so long ago and otherwise apparently unrecorded, the Department charged the entire year, from January 1 to December 31, to delineate when this occurred. As to criminal charges, they were never filed and the statute of limitations long ago ran out. It is only in this forum that an alleged crime of this nature, that old, can be charged.

Whatever problems of proof the Department may have had, Respondent acknowledged his misconduct in that matter. The Advocate termed this an act of violence, which seems a bit overwrought.

The second event occurred on October 31, 2010. By this time, Respondent acknowledged [REDACTED] was in trouble. He had an argument with Person A because he

believed she was cheating on him. He acknowledged there was a physical confrontation with Person A, which he described as follows: "I reached out with my left hand. I grabbed her by the neck nape back of the head portion of the body, I pointed at her with my right hand and called her a lying cheating whore." Respondent acknowledged that a verbal argument continued after that for several minutes.

The Department did not dispute this version of events. No injury was alleged. Respondent was never charged criminally with regard to this incident.

The Advocate also claimed in his closing argument that this event was alcohol-related. The incident occurred sometime in the morning, after 9:30 a.m. Respondent has denied consuming alcohol on that date. He did acknowledge drinking the night before. The Department's claim that this act was alcohol-related, it would seem, is at best, tenuous.

The third event occurred on February 22, 2011. On this occasion, [REDACTED] [REDACTED], Respondent had a verbal argument with Person A. In the course of that argument he punched the wall, damaging a picture frame and causing injury to his hand.

It is not alleged that Respondent struck or even touched Person A on this occasion. It is, however, alleged that he threatened her. Respondent gave unchallenged testimony that what he said was something to the effect that he was not going to touch her or hurt her and that had he wanted to hurt her he could kill her with one hand.

Again, the Advocate alleged that this incident was alcohol-related and the Respondent admits to having consumed alcohol on this day. However, it should also be noted that Ackerman came to the house and had an opportunity to see Respondent shortly after the incident and did not believe that Respondent was "unfit for duty." Similarly, a

duty captain arrived at the scene and no such charge was lodged. [REDACTED] police also responded on this date. No arrest was made.

The Department also described the incidents of October 31, 2010, and February 22, 2011, as "violent" acts. Certainly, the events of October 31, 2010, involved physical contact but there is no indication that Person A was injured. The events of February 22, 2011, involved no physical contact with Person A. Even the threat, taken at face value, is not really a threat as the Respondent asserted that he was not going to hurt her.

There are also two specifications which charge child endangerment. Specification No. 4 relates to the events of October 31, 2010, and Specification No. 5 relates to the events of February 22, 2011. The charges allege that Respondent's two children were "present" when the confrontations between Respondent and Person A occurred on those days. The Advocate did not argue that these specific charges formed a basis for dismissal probation. In evaluating their effect on the case it should be noted that no criminal charges were ever lodged with regard to child endangerment nor is it likely that any successful prosecution for child endangerment could be had under the facts. It appears that no action was taken by any child protective agency and it further appears that Respondent has visitation rights with his children.

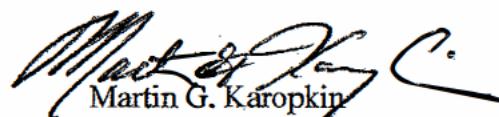
It should also be noted that according to Respondent, he and Person A are no longer living together [REDACTED]. The exchange of children for visitation, he indicated, occurs at a police station. Under these circumstances, repeats of the events of October 31, 2010, and February 22, 2011, seem unlikely.

Conclusion

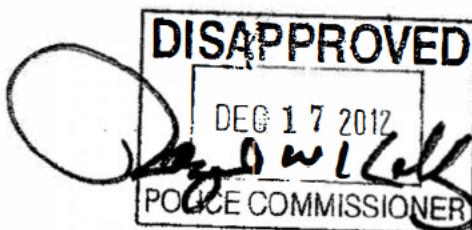
It should be made clear that this Court does not condone or excuse the conduct that Respondent engaged in. It is conduct that is inappropriate for anyone and unacceptable for a police officer. It merits a disciplinary penalty by this Department. The challenge for this Court is to recommend a penalty that is balanced and appropriate.

Certainly, the loss of 30 vacation days is an appropriate penalty. Ordered breath testing is also something that this Department might want to have given the totality of the circumstances. Respondent has indicated, through his attorney, that he is willing to sign a consent to such ordered breath testing. Therefore, it is recommended that Respondent be given an opportunity in conjunction with this case to sign such a consent. This Court however is bound to make a penalty recommendation authorized by the Administrative Code. Based on a full analysis of the case, that penalty recommendation is the loss of 30 vacation days.

Respectfully submitted,



Martin G. Karopkin
Deputy Commissioner – Trials

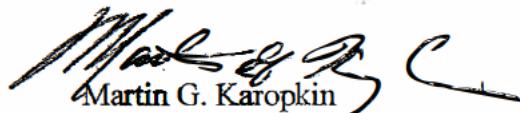


POLICE DEPARTMENT
CITY OF NEW YORK

From: Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
DETECTIVE ROBERT ALARTOSKY
TAX REGISTRY NO. 927834
DISCIPLINARY CASE NO. 2011-5299

In 2010 and 2011, Respondent received an overall rating of 4.5 "Extremely Competent/Highly Competent" on his annual performance evaluation. He was rated 4.0 "Highly Competent" in 2009. He has been awarded seven medals for Excellent Police Duty and one medal for Meritorious Police Duty. In his 11 years of service, he has [REDACTED]. Respondent has no prior formal disciplinary record.

For your consideration.



Martin G. Karopkin
Deputy Commissioner – Trials